

**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-13, 15 and 16 are all the claims currently pending in the application. In response to the Office Action, Applicant respectfully submits that the claims define patentable subject matter.

**I. Overview of the Office Action**

The Examiner has withdrawn the previously indicated allowability of claims 1-13, 15, and 16.

Claims 1-7, 10, 15, and 16 are now rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *previously cited* Danneels et al. (U.S. Patent No. 5,663,951, hereafter “Danneels”), in view of *newly cited* Kerr, (U.S. Patent No. 5,844,600).

Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Danneels in view of Kerr and further in view of Davies (U.S. Patent No. 7,043,749) and Little et al. (“Network and Operating Systems Support for Digital Audio and Video: Proceedings, 5th International Workshop on Network and Operating Systems Support for Digital Audio and Video, Springer 1995”, hereafter “Little”).

Claims 11-13 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Danneels in view of Kerr and further in view of Keshab et al. (“Digital Signal Processing for Multimedia systems”, CRC Press 1999, pg. 245 and 274, hereafter “Keshab”).

Applicant respectfully traverses the claim rejections.

## II. Claim Rejections

Applicant respectfully submits that independent claim 1 is patentable over Danneels and Kerr, because the cited references, alone or in combination, do not teach or suggest all of the features of the claim.

Independent claim 1 recites in part:

a video link between these connection means and the video terminal of the first pair,

an audio link between these connection means and the audio terminal of the first pair,

a video link between these connection means and the second pair , and

an audio link between these connection means and the second pair ,

wherein the connection means synchronizes audio and video data according to a delay,

wherein the video packets are transmitted without delay, and the audio packets are delayed for a predetermined time period, and

wherein the connection means comprises first dating means arranged to attach a transmit time mark and an identifier to audio and video data coming from the first audio communication terminal and the first video communication terminal respectively before their transmission to the second pair via a local network and to attach a receive time mark to the audio and video data coming from the second pair and containing an identifier and a transmit time mark.

Applicant respectfully submits that there is no teaching or suggestion in the cited references that “the connection means comprises first dating means arranged to attach a transmit time mark and an identifier to audio and video data coming from the first audio communication terminal and the first video communication terminal respectively before their transmission to the second pair via a local network and to attach a receive time mark to the audio and video data

**coming from the second pair and containing an identifier and a transmit time mark**, as recited in amended independent claim 1.

The Examiner acknowledges that Danneels does not teach or suggest this feature of the claims, and relies on Kerr to allegedly remedy this conceded deficiency. However, in addressing this claimed feature, Applicant notes that the Examiner does not address or provide support in the cited references for the claimed attaching **“an identifier to audio and video data coming from the first audio and video communication terminal”**, and the claimed attaching **“a receive time mark to the audio and video data coming from the said second pair and containing an identifier and a transmit time mark,”** as claimed.

Applicant reminds the Examiner that Examiners must account for all claim limitations in their rejections by explaining how each limitation is disclosed by (or rendered obvious over) the reference(s) applied. Further, when evaluating the scope of a claim, every limitation in the claim must be considered. USPTO personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered. See, e.g., *Diamond v. Diehr*, 450 U.S. 175, 188-89, 209 USPQ 1, 9 (1981).

At best, Kerr appears to teach that a time stamp is inserted into the video data stream at the source, and the video information with the time stamp is switched and transported through the network. The incoming clock information is compared to local clock information and the video coding delay can be determined and applied to the audio data stream (column 3, lines 12-20 of Kerr). Kerr further teaches that when the video information containing the time stamp, and the audio information are asynchronously received at the destination, the time stamp for the video data is recovered and compared to a local clock to determine the video coding. The result of the comparison is used to delay the audio signal (column 9, lines 2-30).

However, nowhere does Kerr teach or suggest that a receive time mark is attached to the audio and video data coming from the said second pair and containing an identifier and a transmit time mark,” as claimed.

Further still, Applicant respectfully submits that there is no teaching or suggestion in Kerr of attaching “an identifier to audio and video data coming from the first audio and video communication terminal”, as claimed. Applicant notes that the Examiner does not articulate with any specificity how the claimed “identifier” allegedly corresponds to the teachings of Kerr.

The Examiner has failed to articulate how specific features of the claims allegedly correspond to the teachings of the cited references, and thus the Examiner’s stated rejection is clearly improper.

Additionally, the Examiner contends that it would have been obvious to modify the teachings of Danneels with the teachings of Kerr in order to “permit the video and audio packets received across an asynchronous network to be synchronized and presented to the end user in concert”.<sup>2</sup> However, Danneels appears to be fully able to synchronize the video and audio data, since Danneels teaches that the video data is time stamped for synchronization with the audio (see column 6, lines 58-64 of Danneels). In other words, one skilled in the art would not be motivated to modify Danneels when it already possesses the benefits of the proposed modification. Thus, since the Examiner’s sole reasoning for modifying the Danneels reference based on the disclosure of Kerr is to accomplish something that is already present in the Danneels reference, the Examiner has not provided a convincing line of reasoning of why one

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<sup>2</sup> Office Action dated July 27, 2011 at page 5.

skilled in the art would have found the combination of the teachings of the cited references obvious.<sup>3</sup>

Further, Davies, Keshab and Little do not remedy the above-noted deficiencies of Danneels and Kerr.

Accordingly, Applicant respectfully submits that independent claim 1 should be allowable because the cited references, alone or in combination, do not teach or suggest all of the elements of the claim. Claims 2-13, 15 and 16 should also be allowable at least by virtue of their dependency on independent claim 1.

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<sup>3</sup> The mere fact that a reference can be modified does not render the resultant modification obvious unless the prior art suggest the desirability of the modification. See *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). It is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This burden can only be satisfied by an objective teaching in the prior art or by cogent reasoning that the knowledge is available to one of ordinary skill in the art. See *In re Lalu*, (747 F.2d 703, 223 U.S.P.Q. 1257 (Fed. Cir. 1984)).

### **III. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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